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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/759,136

01/20/2004

Brian L. Bettencourt

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EXAMINER

MATTHEWS, TERRELL HOWARD

ART UNIT

PAPER NUMBER

3653

MAIL DATE

DELIVERY MODE

11/19/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/759,136

Applicant(s)

BETTENCOURT, BRIAN L.

Examiner

Terrell H. Matthews

Art Unit

3653

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 8-14 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 8-14 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>1/20/04</u> . | 6) <input type="checkbox"/> Other: ____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 8-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Helfrick (US-D351489) in view of Vosbikian (US-5425153).

Referring to claims 8, 10-13. Helfrick discloses a "Sifting Tray". See Figs. 1-7. Helfrick further discloses a tool comprising: a substantially rectangular perforated base defining the periphery, said base being formed of a flat, uniformly perforated sheet material and defining a plurality of holes dimensioned to allow an optimum amount of material to sift through at controllable rate; a substantially rectangular frame attached about the periphery of said perforated base, said frame having four solidly formed walls extending upwardly from said base to define an enclosure dimensioned to prevent spillage during sifting of the material. Helfrick does not disclose an adjustable handle pivotally attached to and extending from one of the walls of the frame (See at least Fig. 7). Vosbikian discloses a "Broom Dustpan and Combination". See Figs. 1-15 and respective portions of the specification. Vosbikian further discloses a bracket (40), a handle (70), a base member (20), and holes (50, 58, 72). It should be noted that the base member can be broadly construed as a "frame" and that the holes can be

broadly construed for serving as a "socket". Vosbikian discloses that the bracket (40) is rigidly fixed to the base portion (20) and encompasses the end handle (70) and that the "bracket and base member are pivotally coupled via the bracket on a pivot axis transverse to the handle" (See Col. 7 l. 10-11, 15-17). Furthermore, Vosbikian later details that the bracket (40) includes at least two locking means arranged for setting the joint to selected angles (See at least col. 7 l. 51-53). Vosbikian states as well that, "a plurality of locking means can be provided to pivotally fix a handle, relative to the base at any position among the pivot axis" (See at least Col. 12 l. 23-26). Therefore, it would have been obvious at the time of the invention to a person of ordinary skill in the art to modify the apparatus of Helfrick to include the teachings of Vosbikian and include a handle, with a bracket and socket means for temporarily fixing the handle at varying angular height and positions so that the sifting tray could be used more efficiently by allowing a user an easier way to carry and position the apparatus to sift and spread materials at varying positions and heights in an orderly manner. It is broadly construed and generally understood that the sifting tray disclosed by Helfrick is composed of aluminum material. However, it would have been obvious to a person of ordinary skill in the art at the time of the invention to modify the apparatus of Helfrick so that the frame was composed of aluminum so that a light weight but sturdy and durable material was used that could withhold the weight of the materials but that was light to be positioned and moved around.

Referring to claim 9. Helfrick discloses the apparatus as detailed above. Helfrick does not disclose that the holes in the perforated base have a diameter

of about 1/16 of an inch. Helfrick discloses the claimed invention except for explicitly stating the holes are of 1/16 inch diameter. It would have been obvious to a person of ordinary skill in the art at the time of the invention was made to make the holes in the perforate base with a diameter of about 1/16 inch though, since it has been held that where the general conditions of the claims are disclosed in the prior art, discovering optimum or workable ranges involves only routine skill in the art. It should further be noted that it is generally known in the field of the art to make the size of holes based on the material being sifted or dispensed.

Claims 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over Helfrick (US-D351489) in view of Vosbikian (US-5425153) as applied to claims 8-13 in view of Grote (US-2002/0088091).

Referring to claim 14. Helfrick discloses the apparatus as described above in detail. Helfrick does not disclose wherein the handle includes a hollow end for removably attaching an elongated pole. Grote discloses a "Extension Pole For Tools". See Figs. 1-4 and respective portions of the specification. Grote further discloses wherein the handle (12) includes a hollow end (14) for removably attaching an elongated pole (16) (See at least sect. 0038 & at least Figs. 1-2). It would have been obvious to a person of ordinary skill in the art at the time of the invention to modify the combination of Helfrick and Vosbikian to include the teachings of Grote wherein a handle includes a hollow end for removably attaching an elongated pole so that the length of the handle could be extended for situation in which it was required to reach farther or higher.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Terrell H. Matthews whose telephone number is (571)272-5929. The examiner can normally be reached on M-F 8am - 4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Patrick Mackey can be reached on (571) 272-6916. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

THM


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